

private redress was forbidden. For a long time it seemed that the freeman's prerogative was being taken from him. As long as the duel survives the movement is incomplete.

555. Origin of criminal law. When the state took control of injuries and acts of violence and undertook to revenge them on behalf of the victims, as well as in vindication of public authority and order, injuries became crimes and revenge became punishment. Crimes were injuries which could be compensated for, and also violations of the king's peace, that is, of public welfare. In the latter point of view they brought the king's vanity into play. The German emperor Frederick II, by his ferocity against rebels, showed how potent wounded vanity is, as a motive, even in an able man. The crime of treason or rebellion always excites the vanity and fierce revenge of civil authority. It is beyond question that the state in its penalties simply took over the usages of kin groups in inflicting retaliation or gratifying revenge. It did not philosophize. It assumed functions, and with them it took the methods of procedure and the instrumentalities which it found in use for those functions. Criminal

law, therefore, and criminal
administration were
developed out
of blood revenge when it was
rendered rational and its
traditional
processes were subjected to
criticism.